

## DRAFT INFRASTRUCTURE POLICY – 2001

1. For improvement of the quality of life of the people of the state, rapid industrialization and balanced development, infrastructure facilities are highly required. Government of Orissa has proposed to undertake major Infrastructure Projects in the State to attract Industries and for the overall development of the State. To accelerate the sanction and implementation of the Projects in a transparent manner, the Government is planning an Infrastructure policy for implementation with Private Sector Participation.
2. To achieve this objective it is necessary to provide a framework for private sector participation in financing, construction, operation and maintenance of infrastructure projects. GOI's policies on various sectors have been considered.
3. The State Government will identify and offer projects for private investment and also declare few selected sectors as an Industry which shall be notified from time to time. A 10 year perspective plan called Vision 2010 will be prepared identifying projects from various sectors to be offered on private sector participation. Sector-wise action plan would be prepared.
4. The Orissa Infrastructure Policy provides guidelines for attracting and facilitating private investments in infrastructure through:
  - (i) A speedy and transparent selection mechanism
  - (ii) Adequate administrative support and reduction in procedural delays
  - (iii) A bankable risk sharing mechanism
5. The Policy will be applicable for all infrastructure projects implemented with Private Public Partnership (PPP) and requiring Government support. It is an unambiguous declaration to potential investors the Government's commitment to encourage private investment in infrastructure in the State.
6. The Policy envisages the need for a special legislation which would be supported by a set of rules, guidelines and sectoral policies. It would constitute an Industrial Infrastructure Advisory Board (IIAB) for policy

decisions, while the Industrial Infrastructure Advisory Committee(IIAC) would undertake the executive functions.

7. A comprehensive set of rules would be formulated which will provide guiding framework to facilitate private sector participation in infrastructure projects. State Government will take steps to formulate enabling legislation, modification, simplification and rationalisation of existing legal, regulatory and institutional structures so as to facilitate early implementation of these projects. An Infrastructure fund would be created wherein all fees, charges as per concession agreement payable to Government shall be credited.
8. The infrastructure sectors covered by the policy are as follows which may be modified by Government from time to time.
  - (i) Power Generation. Transmission and Distribution systems.
  - (ii) Roads Bridges and Bypasses.
  - (iii) Minor Ports and Harbours
  - (iv) Airports and Heliports
  - (v) Development of Minor minerals.
  - (vi) Inland Container Depots and Logistics Hubs
  - (vii) Health facilities
  - (viii) Information Technology and Telecommunications.
  - (ix) Industrial/Knowledge Parks and Townships
  - (x) Solid Waste Management
  - (xi) Sewerage, Drainage
  - (xii) Inland Water Transport
  - (xiii) Tourism
  - (xiv) Education
  - (xv) Public Markets
  - (xvi) Post harvest facilities.
  - (xvii) Trade Fair, Convention, Exhibition and Cultural Centres
  - (xviii) Water Supply, Treatment and Distribution
  - (xix) (xix) Urban Transportation Systems.

9. The State Government will formulate sector specific policies wherever required for providing specific incentives and also establish Sector Regulators for tariff setting, pricing, arbitration, safety and operational standards, etc. It also envisages coordination across infrastructure sectors and dovetailing sectoral plans.
10. Institutional frame work will be established to identify projects, provide enablers for projects, prepare road map, identify industrial /sectoral linkages, regulating user levies, abuser charges, polluter charges, etc.
11. In order to provide cross-sectoral perspective to infrastructure development and co-ordinate between the various Government Departments and implementing agencies, the IIAC chaired by the Chief Secretary constituted in the IPR-2001 would co-ordinate for all infrastructure projects undertaken through PPP in the State. The executive functions of the IIAC would be as follows:
  - (i) Identify new projects and Identify inter-sectoral linkages
  - (ii) Provide enablers for privatisation
  - (iii) Decide on form / extent of Government support and on model contracts.
  - (iv) Resolve process-related issues and selection of consultants.
  - (v) Decide issues pertaining to user levies and other fees/charges.
  - (vi) Prescribe datelines for clearances, rules and guidelines
  - (vii) Build public opinion
12. Different approaches will be followed for development of the projects depending on whether the developer or the Government Department/Agency initiates the project. Each project is unique and its inherent characteristics would be considered. However, at all times, transparency and fairness of the process shall be paramount.
13. The Government may directly negotiate with developers for implementing:
  - a) Projects where the project has been initiated by the developer and where Minimal administrative support and inter-linkages are required. Only State level clearances are necessary with no fiscal incentives. Project is viable

even when land is granted at market rates, and No exclusive right is conferred on the developer

OR, Where

- b) Projects involve proprietary technology/franchises, which is available with only one developer.
14. The Swiss Challenge Approach would be followed in projects where the project is initiated by a potential developer(Suo-Moto Proposal) and it requires extensive administrative and asset support from the Government,  
Central and extensive State level clearances, linkages, and fiscal incentives. Where land is granted at concessional rates, or Where exclusive rights are accorded to the project developer.
15. In Swiss Challenge, Approach the Government would invite competitive offers to the Suo-Moto Proposal from other developers. Government would then provide the original developer an opportunity to match or improve upon the competing offer in a stipulated timeframe. If he does so the project would be awarded to the Developer offering the Suo-moto. Proposal, else it is awarded to the developer who has submitted the superior offer.
16. For all other projects, the Government would use competitive bidding for developer selection. In case of sole bid the Govt. may accept, or re-negotiate the sole bid. If sole bid is also not received then the Government may either modify pre-qualification criteria or risk sharing provision or have negotiation with any private sector participant. Bidding consortium is also permitted and lead consortium member need to be identified. Speculative bid or unrealistic bid shall be liable for rejection.
17. The policy envisages various type of concession agreement or arrangements like DOT, BLT,BT, BTO, BOOT, BTC, ROM, ROO, CAO, BOOM, SOT, Service contract agreement and Joint Venture agreement.
18. For developer selection in BOOT, BOT, BOO and other similar projects, the Government shall use criteria like Highest investment levels equity

- premium, up front fee and revenue share to the Government. Shortest concession period with lowest bid in terms of the present value of user fees, subsidy and cost of operation & maintenance.
19. For projects under Build Transfer, Build Lease Transfer (BLT) and Build Transfer Lease (BTL), the selection criteria will be based on the lowest NPV (Net Present Value) of payments from the Government.
  20. The policy identifies risk issues in implementation of the projects and will provide for its treatment in the concession agreement. The risk may include market and revenue risk, financial risk, foreign exchange, changes in law, Insurance default by licensor and licensee, Indemnities, environmental damage , force majeure, etc.
  21. The policy addresses the issue relating to risk of lenders. The lenders will be entitled to recover the dues from the developers in the form of user levies mortgage of leasehold rights and in case of default by the developer the lenders will have the right to substitute the developer, with the approval of the Govt.. An Escrow account shall be opened by the developer where a provision is made in the concession agreement requiring the developer to maintain the project.
  22. Special Purpose Vehicles (SPV) can be formed for implementation of infrastructure project as each project has its own intricacies. It is envisaged that SPV would be responsible for ensuring that funds are efficiently invested for developing commercially viable infrastructure projects. The State Government will formulate model concession agreement for implementation of this projects and assist in assessing risk return profiles, financing options, cost recovery mechanism, etc and will grant concessions on a case to case basis not provided in this policy.
  23. State Government would facilitate clearances required from Government of India and other statutory authorities for implementation of the projects.

24. The State Government will not offer any guarantee for these projects. However, the Government may consider making token investment in a particular infrastructure project if it will facilitate speedy implementation. The private investors should use the best technology for construction and installation of infrastructure facilities and should provide infrastructure of international standards.

25. The Government will offer all support, which would lead to the timely execution of projects. However, the Government does not intend offering direct financial support to infrastructure projects to the extent possible.

The Government will offer the following support under 3 categories to all the projects covered under this policy, viz.

i) Administrative Support, wherein

1. State-level statutory clearances will be enumerated and provided within prescribed time limits and pursue for all central level clearances..
2. Non-Statutory State level clearances will be automatically granted .
3. Government will undertake all Rehabilitation & Resettlement (R&B) activities and recover the cost from Developer.

ii) Asset Based Support, wherein:

1. Government owned land may be provided at concessional cost for projects in which ownership would revert to the Government
2. Government will facilitate development of linkage infrastructure for projects.

iii) Fiscal support wherein the Government will :

1. Exempt all inputs required during the construction period from Sales Tax.
2. Exempt the first Sale / Transfer from payment of Stamp duty and Registration Charges.
- 3 Exempt payment of Seigniorage Fees and Cess on minor minerals during construction of the project.

26. To safeguard the interest of Government, Government may levy abuser charges for abuse of any rights granted to the developer in the concession agreement. So also it can levy polluter charges for pollution of the

environment if the developer pollutes the environment or violates any of the environmental requirements as provided in the concession agreement. The developer shall be bound to indemnify the Government against defects of design, construction, maintenance and operation of the project and shall reimburse all expenses in this regard.

27. For projects involving investment of more than Rs.100 crores, the Government may consider the grant of further concessions/incentives which are directly related to the project, depending upon the merits of each case.

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